

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY**

<p>JUBRIL PECOU, individually and as the representative of a class of similarly situated persons, and on behalf of the Bessemer Trust Company 401(k) and Profit Sharing Plan,</p> <p style="text-align: center;">Plaintiff,</p> <p>v.</p> <p>BESSEMER TRUST COMPANY and PROFIT SHARING PLAN COMMITTEE OF BESSEMER TRUST COMPANY</p> <p style="text-align: center;">Defendants.</p>	<p>Civil Action No. 2:22-cv-00377</p> <p style="text-align: center;">STIPULATION OF DISMISSAL</p>
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WHEREAS, Plaintiff Jubril Pecou, individually and on behalf of a class of similarly situated persons, and on behalf of the Bessemer Trust Company 401(k) and Profit-Sharing Plan (the “Plan”), initiated the above-captioned action on January 26, 2022, alleging class action claims under the Employee Retirement Income Security Act of 1974 (“ERISA”) against Bessemer Trust Company and the Profit Sharing Plan Committee of Bessemer Trust Company (“Defendants”) concerning the Bessemer Trust Company 401(k) and Profit-Sharing Plan (the “Plan”);

WHEREAS, on January 27, 2022, and February 1, 2022, counsel for Plaintiff and Defendants (collectively, the “Parties”) met and conferred on various matters

related to the orderly administration and adjudication of Plaintiff's claims against Defendants including, among other things, Defendants' position that the Plan's governing document contains a forum-selection provision that requires actions such as this one be brought in the U.S. District Court for the Southern District of New York ("SDNY");

WHEREAS, Plaintiff took no position on whether this forum-selection provision is valid and binding on his claims, but nonetheless offered to consent to a transfer of the matter to the SDNY for the general convenience of the Parties and witnesses;

WHEREAS, Defendants stated their preference to proceed via a voluntary dismissal of Plaintiff's action in the U.S. District Court for the District of New Jersey ("DNJ") and the filing of a new action asserting the same claims in the SDNY, and agreed that this approach would be without prejudice to Plaintiff's rights as they existed on January 26, 2022;

WHEREAS, in order to proceed with this matter in the SDNY in the most efficient and timely fashion, and in reliance on the representations and agreements described herein, Plaintiff agrees to voluntarily dismiss this matter in the DNJ pursuant to Fed. R. Civ. P. 41(a) and to pursue these claims in the SDNY; and

WHEREAS, for purposes of the impending SDNY litigation, the Parties seek to preserve any and all of their respective claims, rights, and defenses for any and all

purposes related to the filing date of the SDNY litigation as if it had occurred on January 26, 2022 (i.e., the date Plaintiff initiated the action in the DNJ), and without prejudice to either Party as a result of the dismissal of this action and the initiation of a new action in the SDNY.

THE PARTIES HEREBY STIPULATE AS FOLLOWS:

1. This action is dismissed without prejudice pursuant to Fed. R. Civ. P. 41(a) as to all claims, causes of actions, and parties.
2. For any and all purposes related to the litigation of Plaintiff's claims against Defendants, Plaintiff's rights are preserved and in no way prejudiced by the voluntary dismissal of this action in the DNJ and the filing of Plaintiff's claims in the SDNY.
3. For purposes of litigating Plaintiff's claims in the SDNY, Plaintiff's action in the SDNY shall be treated as if it had been initiated on January 26, 2022.
4. The Parties have preserved any and all of their respective claims, rights, and defenses for any and all purposes.

AGREED:

Jubril Pecou, individually and on behalf of a class of similarly situated persons, and on behalf of the Bessemer Trust Company 401(k) and Profit-Sharing Plan.

By his counsel:

s/ Katrina Carroll

Date: February 4, 2022

Katrina Carroll

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**pro hac vice* motions forthcoming

Bessemer Trust Company and the Profit-Sharing Plan Committee of Bessemer Trust Company

By their counsel:

s/ Neil V. Shah

Date: February 4, 2022

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So Ordered on 2/7/2022:



JULIEN XAVIER NEALS
United States District Court